

# Order

Michigan Supreme Court  
Lansing, Michigan

June 15, 2005

Clifford W. Taylor  
Chief Justice

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Justices

ADM File No. 2003-19

Amendment of  
Rule 1.15 of the Michigan  
Rules of Professional Conduct

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On order of the Court, the need for immediate action having been found, the notice requirements are dispensed with and the following amendment of Rule 1.15 of the Michigan Rules of Professional Conduct is adopted, effective immediately. MCR 1.201(D). The amendment will be considered at a future public hearing by the Court. The notices and agendas for public hearings are posted at [www.courts.mi.gov/supremecourt](http://www.courts.mi.gov/supremecourt).

[Additions are indicated in underlining and deletions are indicated in overstriking.]

## Rule 1.15 Safekeeping Property

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. All funds of the client paid to a lawyer or law firm, other than advances for costs and expenses, shall be deposited in an interest- or dividend-bearing account in one or more identifiable banks, savings and loan associations, or credit unions maintained in the state in which the law office is situated, and no funds belonging to the lawyer or the law firm shall be deposited therein except as provided in this rule. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

(b) [Unchanged.]

(c) [Unchanged.]

(d)(1) Except as set forth in paragraph (d)(2), a lawyer who or a law firm which receives client funds shall maintain a pooled interest- or dividend-bearing trust account, as defined by the Michigan State Bar Foundation, at a bank or savings and loan association authorized by state or federal law to do business in Michigan, the deposits of which are insured by an agency of the federal government, or in an open-end investment company registered with the Securities and Exchange Commission for deposit of client funds, other than advances for costs and expenses, which at the time of receipt and deposit the lawyer or law firm reasonably anticipates will generate \$50 or less in interest during the period for which it is anticipated such funds are to be held. Such an account shall comply with the following:

(A) No interest from the account shall be made available to the lawyer or law firm.

- (B) The account shall include all client funds which are not expected to earn more than \$50 in interest during the period it is anticipated such funds are to be held unless such funds are deposited in an interest-bearing account specified in paragraph (d)(2). The good-faith decision by the lawyer as to whether funds are expected to earn this amount is not reviewable by a disciplinary body.
- (C) Funds deposited with a bank, savings and loan association, or open-end investment company~~credit union~~ shall be subject to withdrawal upon request and without delay as soon as permitted by law,~~and the account shall be insured by an agency of the federal government.~~
- (D) The interest or dividend rate paid on the account shall not be less than the highest rate generally available from~~paid by~~ the bank, savings and loan association, or open-end investment company~~credit union~~ to its non-IOLTA customers when the account meets the same minimum balance or other eligibility qualifications. Interest or dividends and fees shall be calculated in accordance with the institution's standard practice, but institutions may elect to pay a higher rate, and may elect to waive any fees, on IOLTA accounts~~any other nonlawyer customers on accounts of the same class within the institution.~~
- (E) The lawyer or law firm shall direct the bank, savings and loan association, or open-end investment company~~credit union~~ to:
  - (i) remit the interest, less per check charges, per deposit charges, a fee in lieu of a minimum balance, federal deposit insurance fees, sweep fees and a reasonable administrative or maintenance fee~~reasonable service charges~~, at least quarterly to the Michigan State Bar Foundation;
  - (ii) transmit, with each remittance to the Michigan State Bar Foundation, a report which shall identify each lawyer or law firm and the amount of the remittance attributable to each account maintained by each lawyer or law firm, the rate and type of interest or dividends applied, the amount of interest or dividends earned, the amount and type of fees deducted, if any, and the average account balance for the period for which the report is made; and
  - (iii) transmit to the depositing lawyer or law firm a report, in accordance with normal procedures for reporting to depositors,~~a report which shall indicate account balances, the rate of interest applied, interest earned, service charges, and the amount remitted to the Michigan State Bar Foundation.~~

(2) [Unchanged.]

Staff Comment: The amendments of MRPC 1.15, effective immediately, are intended to provide interest rate parity with investments in non-IOLTA accounts in order to maximize the return on the investments for the benefit of the Michigan Bar Foundation.

The staff comment is not an authoritative construction by the Court.



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 15, 2005 Angie S. Meyer  
3 Deputy Clerk